IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SECOND DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 1429 of 2005

Between:

E. Ravinder, S/o. Yadagiri,
APSRTC, Nalgonda Bus Depot, Nalgonda.

..... PETITIONER

AND

1 The Depot Manager, APSRTC, Nalgonda Bus Depot, Nalgonda.
2 The Regional Manager, APSRTC, Nalgonda Region at Nalgonda.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ or order or direction more particularly one in the nature of Writ of Mandamus declaring that the action of the respondents in imposing the punishment of deferment of annual increment for a period of one year which shall have effect on petitioners future increments as bad, arbitrary, illegal, unjust and unreasonable and violative of principles of natural justice and contrary to the judgments of this Hon'ble Court and also the apex court by setting aside the final order No. 02/114(1)/96-NLG dated 7-12-1996 of R1 herein and also the consequential order dt. 02/5/2001 of R2 herein and consequently direct the respondents to add the deferred increments and pass such other order or orders

Counsel for the Petitioner :Mr.P.VENKATESWAR RAO

Counsel for the Respondents : Mr.V.T.M.PRASAD (S.C.FOR APSRTC)

The Court at the stage of admission made the following :

ORDER:

The petitioner is working as a Conductor in the respondent-Corporation. He was issued a charge memo for having caused much difficulty to traveling public as he left the bus station at 7.30 hours instead of 8.00 hours on 07-11-1996, by altering the time on control chart, and after receiving the explanation of the petitioner, the final orders were passed on 07-12-1996 by the 1st respondent, imposing the penalty of deferring annual increment for a period of one year with cumulative effect. The petitioner questioned the order on the ground that though there is deferment of annual increment for a period of one year with cumulative effect is a major penalty, the 1st respondent passed the impugned order without conducting any enquiry as required under the rules. Challenging the proceedings dated 07-12-1996, the petitioner carried the matter in appeal before the 2nd respondent. The 2nd respondent rejected the appeal through his proceedings dated 05-12-19977. Against the said rejection, the petitioner preferred a review petition on 18-02-1998 before the 2nd respondent, but the same was also rejected by the 2nd respondent through his proceedings dated 02-05-2001. Aggrieved by the same, the present writ petition has been filed.

2. The learned Counsel for the petitioner relied on a judgment of the Supreme Court in **Kulwant Singh Gill v. State of Punjab**[1] wherein the Supreme Court held that since the punishment imposed on the petitioner is a major punishment, the order cannot be sustained without an enquiry. The petitioner therefore seeks to declare that the order is illegal and it is liable to be set aside.

3. The petitioner after receiving the adverse orders slept over the matter for a period of 8 years. There are latches on his part in asserting his right regarding this issue. Having regard to the facts and circumstances of the case, though the impugned order is liable to be set aside, on account of long lapse of time in filing the writ petition and in view of the judgment of the Supreme Court in **Kulwant Singh Gill** (1 supra), I deem it appropriate to consider that the punishment of deferment of one increment with cumulative effect, can be reduced with slight modification. Therefore, the order of punishment is modified as deferment of one increment without cumulative effect. The petitioner is not

entitled for the difference of the amount, if any, by virtue of this order for the period from the date of the impugned order till the date of this order. But, he is entitled to get increments on notional calculation from the date of this order to which he is entitled, as he had not been imposed penalty of reduction of one annual increment without cumulative effect.

4. The Writ Petition is accordingly disposed of with the above observations. In the circumstances, there shall be no order as to costs.

K.C.BHANU, J.

Dt: 02-02-2005.

Rns

To

1 The Depot Manager, APSRTC,

Nalgonda Bus Depot, Nalgonda.

2 The Regional Manager, APSRTC,

Nalgonda Region at Nalgonda.

3 Two CD copies.